



Air Pollution Control Board

Greg Cox	District 1
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Pam Slater-Price	District 3
Ron Roberts	District 4
Bill Horn	District 5

August 12, 2011

MIKE MONASMITH
PROJECT MANAGER
CALIFORNIA ENERGY COMMISSION
1516 9th STREET
SACRAMENTO, CA 95814

Dear Mr. Monasmith:

The District is providing this letter in response to questions raised concerning the status of the District's Final Determination of Compliance (FDOC) in light of the July 18, 2011, letter from the U.S. Environmental Protection Agency (EPA) to the applicant of the Carlsbad Energy Center Project (CECP). In its letter, EPA withdrew its previous determinations that the CECP was not subject to Prevention of Significant Deterioration (PSD) requirements because the applicant had failed to commence construction by June 30, 2011 (and hence was subject to an applicability determination for federal PSD based on the emission of greenhouse gases). In addition, EPA stated that its prior analysis contained an error. As such, EPA stated that neither its previous determination nor the analysis that the determination was based on could be relied upon for future PSD applicability determinations. In particular, one element of EPA's revoked analysis was a discretionary decision under 40 CFR §52.21 (b)(48)(i) to use a time period different from the standard period specified in 40 CFR §52.21 (b)(48)(i) over which to calculate baseline actual emissions.

These decisions by EPA do not affect the status or the conclusions of the District's FDOC. The District is currently not delegated to implement federal PSD by EPA nor does it have a PSD rule that has been approved by EPA. Hence, PSD permitting for federal PSD is solely the responsibility of EPA at the current time. The District's New Source Review (NSR) rules do contain provisions for PSD that the District implements locally. The proposed project's compliance with these provisions was evaluated in the FDOC in accordance with District Rules and Regulations. EPA's determinations on PSD are not relevant to that evaluation since the evaluation is based on the District's rules, which have not been changed. With respect to nonattainment NSR, any determinations made in the FDOC are not affected by decisions regarding PSD since nonattainment NSR is a separate program from PSD. This would include the baseline used to calculate emission offset requirements for oxides of nitrogen (NOx).

It is worth noting that, although the District PSD provisions reflect many elements of federal PSD, there are some differences. In particular, the District's time period for calculation of baseline emissions differs from that in federal PSD. In addition, the District currently has no authority in its Rules and Regulations to address GHGs.

In summary, the District considers that the FDOC remains valid at this time and reaffirms the conclusions reached therein. While the District may seek federal delegation of the PSD permitting program in the future, at this time the PSD permit remains a separate matter under federal jurisdiction and permitting by the EPA. Thus, EPA would currently be the agency to issue a PSD permit, with no effect on the validity of the District's FDOC.

If you have any questions, don't hesitate to contact me at 858-586-2750.

Sincerely,

A handwritten signature in cursive script that reads "Steve Moore".

STEVEN MOORE
Senior Engineer, San Diego County Air Pollution Control District